does not seem to realize that by placing his emphasis upon force he is making it vastly more difficult to get any case before an international tribunal.

SCUTTLING AN INTERNATIONAL COURT

THE only International Court in the world has recently handed down a decision in which the United States and the cause of international peace are intimately concerned. This country prides itself on being foremost in the promotion of peace between the nations of the earth through some form of international combination based upon law, order, and justice. It is natural to suppose that this country, thus minded, would be the first to heed the decision of an international court. As a matter of fact, the contrary seems to be the case. Our State Department, on being informed of the decision of the Central American Court of Justice, declaring that Nicaragua has, through its recent treaty with this country, violated the treaty rights of Costa Rica, has thus far taken no official cognizance of this decision, on the ground, it is reported, that our country is not a party to the court. Yet, though not technically a party to the court, we are most certainly a party to the treaty which the court has declared to be unjust. Moreover, it is we who made this court possible, and who agreed to stand for it. The question, then, is: Will or will not this country recognize its moral responsibility in this case, and, that our responsibility and the validity of the treaty we made with Nicaragua may be definitely ascertained, voluntarily place itself within the jurisdiction of the Central American court?

By the terms of the Bryan-Chamorro treaty of August, 1914, ratified by our Senate, we are given a grant of canal rights through Nicaragua, and a lease of Great and Little Corn Islands, and territory for establishment of a naval base on the Gulf of Fonseca. In consideration for these rights, it is provided that we shall pay $3,000,000 to Nicaragua, with the interesting proviso that this money shall be expended only as we shall approve. To the terms of that treaty the countries of Central America, exclusive of Nicaragua, have made specific objections, and upon the objections of Costa Rica in particular was based the case decided September 30, 1916, by the Central American Court of Justice.

In this action Costa Rica appeared before the court, calling attention, among other things, to the award of President Cleveland, rendered on May 22, 1888, when he acted as arbitrator in the boundary dispute between Costa Rica and Nicaragua involving the validity and interpretation of the Cañas-Jerez treaty of 1858. Mr. Cleveland's award at that time held that Nicaragua "remains bound not to make any grants for canal purposes across her territory without first asking the opinion of the republic of Costa Rica." This "opinion," according to the old treaty, would be " only advisory," unless Costa Rica's natural rights should be injured; but, said Mr. Cleveland, "in cases where the construction of the canal will involve an injury to the natural rights of Costa Rica, . . . it would seem . . . that her consent is necessary."

Costa Rica now claims that any such canal as that stipulated in the Bryan-Chamorro treaty is impossible without damage to her, and further claims that neither was her consent asked nor was she in any way consulted; that she was not even advised of the preparation of the treaty.

In her complaint before the court, Costa Rica declares that our action in this matter has been unjust and illegal, since we have accepted from another country something of which, under the circumstances, that country had no right to dispose. "No one," says the complaint, "can transfer more rights than he has nor those that he does not possess." Nicaragua's right to dispose of territory for an interoceanic canal, in other words, was limited by its obligation first to consult Costa Rica. Since this was not done, Nicaragua's position is therefore much the same as that of a person who surreptitiously disposes of property upon which there is a lien held by a third person.

Under the common law such a transaction would be termed illegal and void. The Central American Court of Justice has declared Nicaragua's transaction illegal, but it cannot call it void, since this country, a party to the transaction, is not under its jurisdiction. We therefore stand in the light of a person who enjoys a right illegally incurred, but who cannot be brought to book for it. Again we ask, Shall not our moral responsibility in this matter urge us to clear ourselves, if we may, by voluntarily placing ourselves within the jurisdiction of that court?

This we can do, if we will. Our moral responsibility so to do is threefold: First, that, according to our expressed purpose in 1907, we may preserve peace and justice in Central America; second, that we may maintain our recognized integrity as mediator between Central American States; and, third, that we may uphold the integrity of the Central American Court of Justice, which we helped to found. Our effort to excuse ourselves from this responsibility on the grounds of technicality does not hold, for if the sentiments that President Roosevelt and Secretary of State Root expressed in 1907 were anything more than airy compliments, meant only to deceive the five republics concerned, they were specific assurances that this country stood in the relation of elder-brother-republic to the five, willing to act as sponsor for the peaceful arrangement made at that time, and united with them in the sincere purpose

to establish international machinery to maintain that peace.

Our right to place ourselves voluntarily within the jurisdiction of this court is indubitable. We have only to refer to article IV of the convention of 1907. This article states:

"The court may likewise take cognizance of the international questions which by special agreement any one of the Central American governments and a foreign government may have to submit to it."

There is no ambiguity about the language of this clause. It states definitely that the jurisdiction of this court is not limited to the five Central American republics, but may be extended to include any outside nation which, by agreement with any one of the Central American countries, may bring any international case before it.

We have here, then, in brief, a matter which, as it now stands, will certainly result in ever-increasing ill-feeling between five nations of this continent. Indeed, it bids fair to result in the disruption of the union between them. It promises to end in war. We have an adequate procedure outlined whereby this matter may be brought before the only existing international court in the world and war avoided. We have, moreover, a moral if not a legal responsibility in the matter to urge us to follow this procedure. We have, lastly, the certain knowledge that, if we do not so act, we shall place ourselves in the unfavorable light of one who enjoys fraudulent rights and who is protected therein by a technicality.

But we have more to urge us in this matter than moral, or even legal, responsibility. We have an opportunity to stand before the world clean-handed and as upholders, even in minor matters, of one of the greatest principles of international amity. If we as a nation suggest that this case be presented to the Central American court, we shall by that token give to the world definite and concrete evidence of our international good will; of our belief in the possibility of such a thing as international justice; of the scrupulous honesty of our demands that Europe shall, with us, inaugurate a greater court of justice for all civilized nations.

In any event, the matter is now before our State Department. The Secretary of State describes it to us as "a pending issue." Furthermore, none of the $3,000,000 has been paid to Nicaragua. We have the confidence to believe, therefore, that President Wilson and Secretary Lansing are trying to find some way, possibly not mentioned in this editorial or known to the public, to maintain the integrity of this court and the peace of Central America. No matter of more vital importance to the cause of international peace is before us. Much hangs upon the decision our country shall make. Our faith is that we shall handle it in the large spirit of equity and justice, for in this case we are certainly our "brother's keeper."

EDITORIAL NOTES

The American Press on Our Nicaraguan Treaty.

The United States Government's moral responsibility in the case of the Bryan-Chamorro treaty with Nicaragua, treated on page 322, was given to the press on November 13, in the form of an interview with the Secretary of the American Peace Society. In this interview, Mr. Call stated substantially the facts and views given here. It is interesting to note that several prominent newspapers quoted the interview liberally, among them the New York *Tribune, The Christian Science Monitor,* and the New York *Times. The Times* particularly expatiated upon its recommendations, and the next day commented editorially upon it. Supplementing our own views in some respects, it did not fail to insist upon the duty of our Government to preserve the integrity of the Central American Court of Justice, which has been threatened by our attitude in the matter thus far. That so influential a paper as *The Times* has taken this matter up is encouraging. This editorial declares, in part, that—

"It was provided in the treaty by which the court was established that it might consider any international question which by special agreement between one of the republics and a foreign government should be submitted to it. Therefore our Government, by agreement with Nicaragua, can go before the court on the question of the treaty. If it should do so, however, the court's decision could be foreseen. It would be against the treaty, which we should be required to annul. In all probability, however, this result can be avoided, the court can be saved, and war can be prevented, by additional new agreements between our Government and the protesting republics, agreements or treaties which should have been made when the treaty with Nicaragua was negotiated by Mr. Bryan. There is evidence that such agreements would not be opposed by the complainants, at least one of whom has a good case. The court should be saved. It has done good work. With it would go the annual Central American conferences, which have been very useful. The loss of the treaty would not be a heavy price to pay for the preservation of the court and for prevention of war. But the treaty can be saved, with the court, and war can be averted."